



COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; publication of character of a revised system of records.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is revising a system of records under the Privacy Act of 1974, CFTC-12, Fitness Investigations, and renaming the system “National Futures Association (NFA) Applications Suite System (Exempted)” to more broadly cover the activities of NFA on behalf of the Commission by delegated authority and also cover new data collections for swap dealers, major swap participants and retail foreign exchange dealers as required by the Dodd-Frank Wall Street Reform Act and recent Commission rules.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. This action will be effective without further notice on [INSERT DATE 40 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified by “NFA Applications Suite System (Exempted)” by any of the following methods:

- Agency web site, via its Comments Online process: <http://comments.cftc.gov>.

Follow the instructions for submitting comments through the web site.

- Federal eRulemaking Portal: Comments may be submitted at <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Secretary of the Commission, Commodity Futures Trading

Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to www.cftc.gov. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of a submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the public comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, kharman-stokes@cftc.gov, 202-418-6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a “system of records” is defined as any group of records under the control of a federal government agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act establishes the means by which government agencies collect, maintain, and use information that is personally identifiable in a government system of records.

Each government agency is required to publish a notice in the Federal Register of a system of records in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the personally identifying information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if the system contains information about them, among other things.

II. NFA Applications Suite System (Exempt)

The Commission proposes to revise a system of records notice (SORN), CFTC-12, “Fitness Investigations,” and rename the notice as “National Futures Association (NFA) Applications Suite System (Exempted).” The notice revises the description of the system and enhancements to more broadly cover the activities of NFA on behalf of the Commission by delegated authority and also covers new data collections for swap dealers, major swap participants and retail foreign exchange dealers as required by the Dodd-Frank Wall Street Reform Act and recent Commission rules. The revised notice also exempts from certain Privacy Act requirements those records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of

registrants or applicants for registration. Though subject to change with future information technology upgrades, the notice covers activities that are currently automated by the following NFA databases and applications:

- BASIC – Background Affiliation Status Information Center;
- Fingerprint system;
- DDOC – Disclosure Document System;
- EFC – Electronic Filing Cabinet;
- EasyFile;
- FACTS – Financial Analysis & Audit Compliance Tracking System;
- Fitness Image;
- NFA Audit System;
- ORS – Online Registration System;
- Winjammer™ Online Filing System.

This single SORN will replace and rename CFTC-12, “Fitness Investigations,” and will result in retirement of two other SORNs, CFTC-20, “Registration,” and CFTC-28, “Self-Regulatory Organization Disciplinary Action Files.”

Issued in Washington, DC, on September 24, 2014, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

CFTC-12

SYSTEM NAME:

National Futures Association (NFA) Applications Suite System (Exempted).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The electronic applications and databases that comprise the NFA Applications Suite System (Exempted) are located in two primary locations, NFA, 300 South Riverside, Suite 1800, Chicago, Illinois 60606 and the CFTC, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Some information is also located at CFTC regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661; 140 Broadway, 19th Floor, New York, NY 10005; and 4900 Main Street, Suite 500, Kansas City, MO 64112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied or who may apply for registration as futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, leverage transaction merchants, swap dealers, major swap participants, retail foreign exchange dealers and agricultural trade option merchants (ATOMs); individuals who file notices of exemption or claims for exemption from certain CFTC requirements; individuals who are or may become principals (as defined in 17 CFR 3.1); individuals who have applied or who may apply for registration as associated persons of the foregoing firms; and floor brokers and floor traders. Also individuals, who have been suspended, expelled, disciplined, or denied access to or by a self-regulatory organization (SRO), including, but not limited to, NFA or who have been subject to a CFTC civil or administrative action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the fitness of the individuals or firms to engage in business subject to the Commission's jurisdiction, including but not limited to registration forms, schedules and supplements, fingerprint cards which are required for certain individual registrants as provided under CFTC rules, correspondence relating to registration, fitness investigations, and reports and memoranda reflecting information developed from various sources. This system includes investigatory material compiled for law enforcement purposes whose disclosure the Commission staff has determined could compromise Commission investigations, or would reveal the identity of a source who furnished information to the Commission under an express promise that the identity of the source would be held in confidence.

Information pertaining to disciplinary or other adverse action taken by an SRO or the CFTC, including the name of the person against whom such action was taken, the action taken, and the reasons.

Information submitted by certain individuals or firms to enable NFA and/or CFTC supervision and oversight of activities governed by the Commodity Exchange Act, such as financial statements, reports and notice filings; disclosure documents; and submissions by swap dealers and major swap participants pursuant to Commission Regulation 3.10(a)(1)(v)(A) and information developed by the NFA and/or CFTC related to such information.

Information submitted by individuals related to notices of exemption or claims for exemption from certain CFTC requirements and information developed by NFA and/or the CFTC related to the notice of exemption or claim for exemption.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Commodity Exchange Act, 7 U.S.C. 1, et seq., and the rules and regulations promulgated thereunder.

PURPOSE(S):

The records in this system are used to support the Commission's registration and other regulatory authority as delegated to NFA. This involves maintaining fitness investigation and other fitness related records, including investigatory material compiled for law enforcement purposes, non-fitness registration records, images of registration records, information related to disciplinary action taken by the CFTC and self-regulatory organizations including NFA; processing hard copy and electronic fingerprint cards; and maintaining a web based registration system, records related to notices of exemption or claims for exemption from certain CFTC requirements, and financial statements, reports, notices and other filings that enable NFA and the CFTC to oversee registrant activities for compliance with legal requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with NFA rules that have been approved by the Commission or permitted to become effective without Commission approval. Disclosures must be made under circumstances authorized by the Commission as consistent with the Commission's regulations and routine uses.

NFA generally makes available to the public on NFA website(s), including the Background Affiliation Status Information Center (BASIC), firm directories, registration forms, business addresses, telephone numbers, registration categories, biographical supplements (except for any confidential information on supplementary attachments to the forms), effective dates of registration, registration status, and disciplinary action taken concerning futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, swap dealers, major swap participants and retail foreign exchange dealers and their associated persons. NFA also will release records or portions of records to any member of the public if such records or portions are “public” or “publicly available” under CFTC Regulations 1.10(g) or 145.0.

For information not made available to the public as explained above, NFA may disclose information contained in those portions of this system of records maintained by NFA:

(1) to any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal or with whom an individual is or plans on being associated as a swap associated person;

(2) to any futures commission merchant or retail foreign exchange dealer with whom an introducing broker, whether an applicant or registrant, has or plans to enter into a guarantee agreement under CFTC Regulation 1.10;

(3) to boards of trade designated as contract markets or to any other futures associations registered with the Commission to assist those organizations in carrying out their responsibilities under the Act, or to national securities exchanges or national securities associations registered with the Securities & Exchange Commission to assist

those organizations in carrying out their responsibilities under the Securities Exchange Act of 1934;

(4) to federal, state or local law enforcement or regulatory agencies acting within the scope of their jurisdiction or for their use in meeting responsibilities assigned to them under law (to the same extent that the Commission may disclose such registration information under Sections 8(e) and 8(g) of the Act);

(5) pursuant to an order of a court of competent jurisdiction; except that, subpoenas and summonses covering non-public portions of registration records and copies of the non-public records shall be promptly forwarded to the Commission to enable the Commission to consult with NFA on how to proceed;

(6) otherwise with the authorization of the FOI, Privacy and Sunshine Act Compliance staff or the General Counsel of the Commission or his or her designee, in accordance with CFTC Regulations 145.7(b), (h) and (i); the Freedom of Information Act, 5 U.S.C. 552; and the Privacy Act, 5 U.S.C. 552a; and

(7) to any individual or firm, or person acting on behalf of the individual or firm, who seeks access to registration records, excluding any reports reflecting information developed from sources outside the Commission or NFA compiled or generated in connection with determining fitness for registration or affiliation as a principal, in connection with that individual's or firm's application for registration.

Information in this system may also be disclosed in accordance with the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission's compilation of its systems of records notices, which can be found in the Federal Register at 76 FR 5974 (Feb. 2, 2011).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Paper records are stored in file folders and binders. Electronic records, including computer files, are stored on the Commission's network, NFA databases or applications, NFA Website, and other electronic media (e.g., microfiche) as needed.

RETRIEVABILITY:

By the name of the individual or firm, an NFA identification number, docket number or by cross-indexing an individual's file to the name of the firm with which the individual is associated or affiliated (e.g., the name of the futures commission merchant).

SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical and physical security measures. Administrative measures includes workforce security awareness training. Technical security measures within the NFA and CFTC include restrictions on computer access to authorized individuals, required use of strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with CFTC Records Schedules available at:

www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/recordsdispositionschedule.pdf.

SYSTEM MANAGER(S) AND ADDRESS:

For records held by the Commission related to fitness investigations and registration: Director, Division of Swap Dealer and Intermediary Oversight (DSIO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Surveillance Branch Chiefs in the regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661 and 140 Broadway, 19th Floor, New York, NY 10005. For records held by the Commission related to disciplinary action: Director, Division of Market Oversight (DMO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

For records held by NFA: Vice President for Registration, National Futures Association, 300 South Riverside, Suite 1800, Chicago, Illinois 60606.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to FOIA/Privacy Act Request, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418-5000.

Individuals may also request registration information by telephone directly from the NFA information center at (800) 621-3570 or (312) 781-1410. Inquiries can also be made to NFA by fax at (312) 781-1459 or via the Internet at information@nfa.futures.org. NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records. The Internet may be used to obtain information on current registration status and futures-related regulatory actions at www.nfa.futures.org.

RECORD SOURCE CATEGORIES:

The individual or firm on whom the record is maintained; the individual's employer; individuals filing reparations complaints or answers; Federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges; NFA; Financial Industry Regulatory Authority (FINRA); foreign futures and securities authorities and INTERPOL; self-regulatory organizations notifying the Commission of disciplinary or other adverse actions taken; and other miscellaneous sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of applicants for registration or registrants are exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. 552a(k)(2), and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, records access procedures, and record contest procedures set forth in the system notices of other systems of records, and from the requirement that the sources of records in the system be described.

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